IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 1ST MARCH 2007 / 10TH PHALGUNA 1928

Crl.MC.No. 542 of 2007()

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LP.47/2005 of JUDL. MAGISTRATE OF FIRST CLASS COURT, NILAMBUR

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PETITIONER: ACCUSED:

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SULAIMAN, S/O.ABDULLA (LATE)
AGED 37 YEARS, KOLOMTHODIKA HOUSE,
THEKKUMKKUNNU, P.O.KARULAI,
NILAMBUR TALUK, MALAPPURAM DISTRICT.

BY ADV. SRI.SUNNY MATHEW

RESPONDENTS:

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STATE OF KERALA THROUGH THE
SUB INSPECTOR OF POLICE, NILAMBUR POLICE
STATION, REPRESENTED BY THE PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 01/03/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

**R.BASANT, J**

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**Crl.M.C.No.542 of 2007**

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Dated this the 1st day of March, 2007

**ORDER**

The petitioner is the 2nd accused in a crime registered initially under Section 324 I.P.C. Later the Section of offence has been altered to Section 326 I.P.C. The petitioner as well as his brother were the accused in the crime and the allegation is that they are guilty of causing hurt to the defacto complainant-their sister. According to the petitioner, the dispute between the petitioner and his sister has been settled. His brother, the 1st accused has already been found not guilty and acquitted. The petitioner was not available for trial as he was employed abroad. He now finds that the case against him has been split up and transferred to the list of Long Pending Cases and coercive processes issued by the learned Magistrate are chasing him. He is prepared to surrender before the learned Magistrate. He apprehends that his application for bail may not be considered by the learned Magistrate on merits, in accordance with law and expeditiously. In these circumstances, the petitioner prays that direction under Section 482 Cr.P.C may be issued in favour of the petitioner to grant him bail when he appears and applies before the learned Magistrate.

2. I find absolutely no reason to invoke the powers under Section 482 Cr.P.C. It is for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate the circumstances under which he could not earlier appear before the learned Magistrate. I have no reason to assume that the learned Magistrate would not consider such application on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific direction appears to be necessary. Sufficient general directions have already been issued in **Alice George v. The Deputy Superintendent of Police [**2003(1) KLT 339].

3. This Crl.M.C is, in these circumstances, dismissed, but with the specific observation that if the petitioner appears before the learned Magistrate and applies for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously - on the date of surrender itself.

**(R.BASANT, JUDGE)**

rtr/-